

**MURPHY & RILEY, P.C.**

ATTORNEYS AND COUNSELLORS AT LAW

141 TREMONT STREET  
BOSTON, MASSACHUSETTS  
02111

E-Mail Address: EMail@MurphyRiley.com

RICHARD J. RILEY  
ROBERT J. MURPHY  
SUSAN DONNELLY MURPHY  
JOSEPH A. KING  
JOHN P. COAKLEY  
MARGRET R. COOKE  
AMY R. RILEY  
LAUREN A. BOICE  
JOHN O. MITCHELL  
MICHAEL C. CUNNINGHAM  
WILLIAM P. MEKRUT

TELEPHONE  
(617) 423-3700

FACSIMILE  
(617) 423-1010

WALTER G. MURPHY  
(1925-2000)

September 24, 2004

**VIA HAND DELIVERY**

Courtroom Clerk  
Dianalynn Saccoccio  
United States Magistrate Judges  
For the District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way  
Boston, MA 02210

FILED  
IN CLERKS OFFICE  
2004 SEP 24 P 4:18  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

**IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE  
LITIGATION  
MDL 1456**

**THIS DOCUMENT RELATES TO: ALL ACTIONS  
MASTER FILE NO.: 01-CV-12257-PBS**

**JUDGE PATTI B. SARIS**

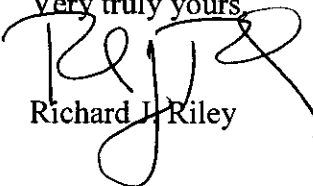
Dear Ms. Saccoccio:

I am writing this note to follow up on the voicemail message I left for you earlier today. I represent First Data Bank, Inc. and Patricia Kay Morgan, non-parties to the above-captioned matter. The motion of certain plaintiffs to compel deposition testimony from Ms. Morgan (and FDB's counter-motion for a protective order) are scheduled for hearing on Monday morning before Magistrate Judge Bowler. I understand that there are numerous other discovery motions that will be argued at the same hearing which is set to begin at 10:30 a.m. I do not know if the judge has set an order in which the pending motions will be addressed, but to the extent that the judge may be receptive to a specific request in that regard, FDB would request that the motion/counter-motion involving it be heard first.

Courtroom Clerk  
Dianalynn Saccoccio  
September 24, 2004  
Page 2

The reason for the request is that as a non-party, FDB does not have a stake in the other pending discovery motions between and among the actual parties to the action. Thus, if the FDB matter is heard first, then counsel (including New York counsel for FDB who will be arguing on its behalf) would not be required to remain for arguments on what appear to be numerous motions as to which FDB has no involvement. Obviously, if the judge has for whatever reason already set the schedule of oral arguments for a different order, FDB defers entirely to the Court's discretion.

Thank you and please feel free to contact me if you should wish to discuss this matter.

Very truly yours  
  
Richard J. Riley

RJR/so